

**STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS**

**ORDER**

Application 14851 Permit 9095 License 4137

**ORDER AMENDING THE LICENSE BY REDUCING THE PLACE OF USE,  
AND BY ADDING CONTINUING AUTHORITY, WATER QUALITY OBJECTIVE  
AND ENDANGERED OR THREATENED SPECIES TERMS**

**WHEREAS:**

1. License 4137 was issued pursuant to Application 14851 to Claire K. Jaquith on September 2, 1955.
2. License 4137 was subsequently assigned to Howard Reed on November 22, 1963, then June M. Reed was added prior to 1966, then James E. Mann and Joyce Dale Mann on July 7, 1976, and then to Vogt's Holstein Dairies in February, 2000.
3. The Division of Water Rights (Division) conducted an inspection of the project covered by License 4137 on July 30, 1999. This inspection found that ownership of the license has changed, Reports of Licensee have not been filed since 1984, and lands under irrigation have been reduced.
4. The Division mailed a certified letter dated September 27, 1999, to Vogt's Holstein Dairies stating that the place of use covered by this license would be reduced unless the licensee could demonstrate use of water on the area proposed to be removed. No response was received by the Division.
5. The State Water Resources Control Board (SWRCB) has determined that a reduction in the place of use is appropriate.
6. The SWRCB will also add standard continuing authority term, water quality objective term and a term to prevent any act which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

The following correction be made and the following terms and conditions be revised or added to License 4137:

1. The place of use under this license is corrected as follows:

17.5 acres within NE1/4 of NW1/4 of projected Section 11, T22N, R2W, MDB&M.  
19.0 acres within NE1/4 of NE1/4 of projected Section 11, T22N, R2W, MDB&M.  
39.0 acres within SE1/4 of NE1/4 of projected Section 11, T22N, R2W, MDB&M.  
75.5 acres total, as shown on map on file with the State Water Resources Control Board.

2. The following water quality objective term is added to this license:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the California Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharge.

3. The existing continuing authority term in this license is revised as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from

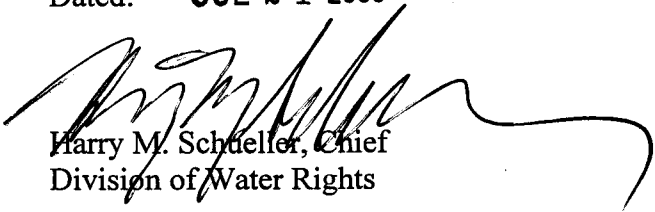
water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the license in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

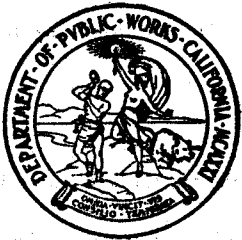
4. The following endangered species term is added to this license:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Dated: JUL 21 2000



Harry M. Schueller, Chief  
Division of Water Rights



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

## License for Diversion and Use of Water

APPLICATION 14851

PERMIT 9095

LICENSE 4137

THIS IS TO CERTIFY, That Claire K. Jaquith  
Route 2, Box 110  
Orland, California

Notice of Assignment (Over)

*has* made proof as of June 10, 1954,  
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of  
an unnamed stream in Glenn County

tributary to Central Irrigation Canal thence Sacramento River

for the purpose of irrigation use

under Permit 9095 of the Department of Public Works and that said right to the use of said water has  
been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works  
and the terms of the said permit; that the priority of the right herein confirmed dates from June 10, 1952;  
and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited  
to the amount actually beneficially used for said purposes and shall not exceed sixty-three hundredths (0.63)  
cubic foot per second to be diverted from about April 1 to about November 1 of  
each year.

The equivalent of such continuous flow allowance for any thirty day period  
may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located south thirty (30) feet and east three  
thousand nine hundred sixty (3960) feet from NW corner of projected Section 11,  
T 22 N, R 2 W, MDB&M, being within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 11.

A description of the lands or the place where such water is put to beneficial use is as follows:

17 acres within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 11, T 22 N, R 2 W, MDB&M  
38 acres within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 11, T 22 N, R 2 W, MDB&M  
38 acres within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 11, T 22 N, R 2 W, MDB&M  
93 acres total

All rights and privileges under this license including method of diversion, method of use and quantity of water  
diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance  
with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or  
unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time  
to time by the State Engineer.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein  
specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.



Witness my hand and the seal of the Department of Public  
Works of the State of California, this 2nd  
day of September, 1955

A. D. EDMONSTON, State Engineer

By Harvey O. Banks  
HARVEY O. BANKS  
Assistant State Engineer

11-15-63 RECEIVED NOTICE OF ASSIGNMENT TO

Howard Reed

5-12-64 - June M. Reed Added;

6-22-76 ASGD TO JAMES E. & JOYCE D. MANN

5-30-84 Ownership Chgd to James E. Mann

9-27-99 ASGD TO Vogt's Holstein Dairies

LICENSE 4137

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

LICENSE  
TO APPROPRIATE WATER

ISSUED TO Claire K. Jaquith

DATED SEP 2 1955

92357-5-53 3H SPO